

Representative William Tong, Co-Chairperson
Judiciary Committee
Legislative Office Building
Room 2405
Hartford, Connecticut 06106-1591

Senator Eric D. Coleman, Co-Chairperson
Judiciary Committee
Legislative Office Building
Room 2500
Hartford, Connecticut 06106-1591

Senator John A. Kissel
Legislative Office Building
Room 3400
Hartford, Connecticut 06106-1591

Representative Rosa C. Rebimbas
Legislative Office Building
Room 4200
Hartford, Connecticut 06106-1591

Representative Richard A. Smith
Legislative Office Building
Room 4200
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Representative David Baram
Legislative Office Building
Room 5006
Hartford, Connecticut 06106-1591

Senator Paul R. Doyle
Legislative Office Building
Room 3900
Hartford, Connecticut 06106-1591

State Representative Daniel J. Fox
Legislative Office Building
Room 5009
Hartford, Connecticut 06106-1591

Re: HB 6774, An Act Concerning Adoption of the Connecticut Uniform Power of Attorney Act

House Bill 6774
Judiciary Committee
Public Hearing: 2/25/15

TESTIMONY OF AMY L. Y. DAY
IN SUPPORT OF HOUSE BILL 6774

AAC THE ADOPTION OF THE CONNECTICUT
UNIFORM POWER OF ATTORNEY ACT

I am a trusts and estates attorney, with an office in Westport, Connecticut and I am currently serving as the Chair of the Estates & Probate Section of the Connecticut Bar Association. I am submitting this testimony to ask you to support the passage of HB 6774, An Act Concerning Adoption of the Connecticut Uniform Power of Attorney Act (“UPOAA”).

Connecticut’s current statutory short form power of attorney law was enacted in 1965; 50 years ago! It has never been overhauled or substantially updated. This leaves us with a law that is antiquated and does not cover issues that we commonly face today. HB 6774 modernizes our law and covers many situations that are problematic under our outdated law.

For instance, our current statute does not cover such things as Individual Retirement Accounts and other forms of retirement benefits. Just in the last two weeks I have had a situation come up with a client who needed a power of attorney to allow his spouse to update the direct deposit of his retirement benefits into a new bank account set up by the couple as a result of a move into a retirement facility. The statutory power of attorney that he had signed previously based on the old law did not cover the situation. Instead, I had to manually draft provisions to cover retirement benefits in a new power of attorney for him. Perhaps I should not complain, since I am paid for such services, but how much better it would have been for the client if the standard power of attorney could have covered this issue without paying for legal time.

Another important and much needed change to our current power of attorney law provided by House Bill 6774 is the inclusion of provisions concerning fiduciary duties of the agent under a power of attorney and the provision of remedies and sanctions for an agent’s abuse. I currently have on my desk a situation for another client concerning the theft of the client’s funds from his bank account by his son using a power of attorney.

The proposed bill also promotes greater certainty for our clients and the institutions which rely on them. It promotes the acceptance of powers of attorney by financial institutions by creating a presumption that a properly executed power of attorney is valid and further by providing that those who accept a duly executed power of attorney may rely on its terms without incurring liability. While some of my colleagues from the Estates & Probate bar of the State of

Connecticut are not totally satisfied that this bill goes far enough in requiring the acceptance of a power of attorney by financial institutions, it is infinitely better than our current statute.

HB 6774 will also allow for the portability of powers of attorney from and to other jurisdictions. Again, I currently have a matter pending in which the parties would like to use a power of attorney from another state. How nice it will be to be able to tell clients that the powers of attorney they have put in place in another state will be honored here rather than insisting that they go to the trouble and expense of having a new power of attorney prepared.

Finally, UPOAA will apply retroactively, thereby applying its safeguards to existing powers of attorney while not revoking or invalidating existing documents.

As I am sure others have explained UPOAA is the result of a two-year drafting effort by the Estates & Probate and Elder Law Sections of the Bar. As chair of the Estates & Probate Section of the CBA, I can report that it has wide support among the members of the Executive Committee of the Section. I strongly urge you to support this timely and important bill.

Thank you for your consideration.